

Title	Alternative Dispute Resolution: Forms related to attorney-client fee arbitration and contractual arbitration (revise form ADR-103; revise and renumber form ADR-103A as form ADR-105; approve forms ADR-104 and ADR-106)
Summary	Current form ADR-103, <i>Petition After Attorney-Client Fee Dispute Arbitration Award</i> , can be used both to request confirmation, correction, or vacatur of an attorney-client fee arbitration award and to request a trial de novo following a nonbinding attorney-client fee arbitration. Form ADR-103 would be revised and the request for a trial de novo would be put into a new, separate form ADR-104. A new optional form ADR-106 would be created for requesting confirmation, correction, or vacatur of contractual arbitration awards that do not involve attorney-client fee disputes.
Source	Civil and Small Claims Advisory Committee Hon. Elihu Berle, Chair
Staff	Alan Wiener, Staff Attorney, 818-558-3051 alan.wiener@jud.ca.gov
Discussion	<p><u>Background</u></p> <p>California law provides that parties may agree to submit an existing or a future controversy to arbitration. (Code Civ. Proc., § 1281.) Awards resulting from such “contractual arbitrations” are generally binding and are subject only to limited court review. Code of Civil Procedure sections 1285 et seq. set forth the grounds, procedures, and time limitations for confirmation, correction, and vacatur of contractual arbitration awards.</p> <p>The Business and Professions Code requires attorneys to arbitrate fee disputes with their clients, upon a client’s request. (Bus. & Prof. Code, § 6200(c).) A client may request arbitration before an action concerning the fee dispute is filed in court, or within a limited time after an action is filed, which results in the court case being stayed pending the arbitration. (Bus. & Prof. Code, § 6201.)</p> <p>An attorney-client fee arbitration award is initially nonbinding, unless the parties agreed to be bound in writing after the dispute arose. Absent such an agreement, any party except one who willfully failed to appear at the arbitration hearing is entitled to a trial de novo if they request one within 30 days after the award is mailed. If no party entitled to a trial de novo requests one within 30 days, the award becomes binding even if the parties did not agree to be bound. (Bus. & Prof. Code, §§ 6203(b) and 6204(a).)</p>

The manner for requesting a trial de novo after a fee arbitration depends on whether an action concerning the fee dispute is already pending in court. If a court action is already pending, the trial after arbitration must be initiated by filing a rejection of award and request for trial in that pending action. (Bus. & Prof. Code § 6204(b).) If no action is pending, the trial must be initiated by commencing an action in the court having jurisdiction over the amount of money in controversy. (Bus. & Prof. Code § 6204(c).)

A party may also petition the court to confirm, correct, or vacate a fee arbitration award, as provided in Code of Civil Procedure section 1285 et seq. (governing contractual arbitration awards). If an action concerning the fee dispute is already pending in court, the petition must be filed in that action; otherwise it must be filed as a new action in the court having jurisdiction over the amount of the award. (Bus. & Prof. Code, § 6203(b).)

Current and proposed forms concerning fee dispute arbitrations

Current form ADR-103, *Petition After Attorney-Client Fee Dispute Arbitration Award*, may be used to request confirmation, correction, or vacatur of a fee arbitration award, regardless of whether an action concerning the fee dispute is already pending, or to request a trial after a nonbinding fee arbitration, provided such an action is already pending. However, there are different timeframes for requesting each type of relief. A request for a trial must be filed within 30 days after a nonbinding award is mailed; correction or vacatur must be requested within 100 days after the award was served; and confirmation must be requested within four years after the award was served.

Because of the different situations and timeframes in which trial after an attorney-client fee arbitration and confirmation, correction, or vacatur of a fee arbitration award are available, the Civil and Small Claims Advisory Committee is concerned that a single form encompassing all of these requests may confuse litigants (particularly self-represented litigants) and cause them to request relief that is not available to them. In addition, current form ADR-103 does not include certain allegations that are statutory requirements for a petition to confirm, correct, or vacate an arbitration award, or that may otherwise help the responding party and the court address such requests.

To make it easier for litigants to request appropriate relief after an attorney-client fee arbitration, and to make it easier for respondents and courts to address such requests, the committee proposes that there be separate forms for requesting confirmation, correction, or vacatur of an award and for requesting a trial after an attorney-client fee

arbitration – a revised form ADR-103 and new form ADR-104. Proposed forms ADR-103 and ADR-104 would also elicit additional information which is required by statute or which may be helpful in addressing these requests.

Current form ADR-103A, *Information Regarding Rights After Attorney-Client Fee Arbitration*, provides information and instructions concerning the use of current form ADR-103. To reflect the proposed revisions to form ADR-103 and the creation of new form ADR-104, the content of ADR-103A would be revised. To make it clearer that the information pertains to both forms ADR-103 and ADR-104, the form would also be renumbered as ADR-105.

New form concerning contractual arbitrations

There is currently no Judicial Council form for requesting confirmation, correction, or vacatur of an arbitration award that does not concern an attorney-client fee dispute. To make it easier for litigants to request this relief after contractual arbitrations, the committee proposes that new form ADR-106, *Petition to Confirm, Correct, or Vacate Contractual Arbitration Award*, be approved for optional use.

Comments requested

While comments on any aspect of these proposed forms are welcomed, we would particularly appreciate your comments concerning the following issues:

1. Is there a need for Judicial Council forms to request a trial after a non-binding attorney-client fee arbitration or to request confirmation, correction, or vacatur of a fee arbitration or a contractual arbitration award?
2. Are any allegations in proposed forms ADR-103, ADR-104, and ADR-106 unnecessary or not sufficiently important to warrant the burden of providing the information or the length or complexity that they add to the form?
3. Is it beneficial to include optional allegations of all the statutory grounds for vacating an arbitration award in item 10c of proposed forms ADR-103 and ADR-106 so that parties will be aware of these grounds and can conveniently allege them, or should these optional allegations be eliminated because they may foster baseless allegations?
4. Are any allegations missing from the forms that should be included?

Please note that this proposal does not include a form to commence an action concerning an attorney-client fee dispute when one is not already pending. To facilitate requests for trial de novo after a nonbinding attorney-client fee arbitration when an action concerning the fee dispute is not already pending, the committee considered developing a form complaint, or a combined complaint and request for trial, that a party could use to commence a new action and request a trial. The committee concluded that this was not feasible because of the variation in the causes of action and facts that such a complaint might need to allege. For example, if an attorney is filing the request for trial, the complaint might need to allege causes of action such as breach of contract, quantum meruit, and account stated. A client requesting a trial might need to allege causes of action including breach of contract, professional negligence, or declaratory relief (seeking a determination that the amount awarded to the attorney is not owing).

New form ADR-104 is designed so that it can be filed with a new complaint, and information form ADR-105 refers parties to the existing Judicial Council complaint forms that can be used to commence breach of contract actions. Comments are requested concerning whether this approach is sufficient or whether it would be beneficial to develop other forms that can be used to commence a new action after a nonbinding fee arbitration award.

The proposed revised and new forms are attached.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (Optional):</div> </div> E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT 5</h1> <h1 style="margin: 0;">3/19/03</h1>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
PETITION TO <input type="checkbox"/> CONFIRM <input type="checkbox"/> CORRECT <input type="checkbox"/> VACATE ATTORNEY-CLIENT FEE ARBITRATION AWARD	
Jurisdiction (check all that apply): <input type="checkbox"/> Action is a limited civil case Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input type="checkbox"/> Action is an unlimited civil case (exceeds \$25,000)	CASE NUMBER:
NOTICE: You may use this form to request that the court confirm, correct, or vacate an attorney-client fee arbitration award. You may not use this form to reject a nonbinding attorney-client fee arbitration award and request a trial, but you may use form ADR-104 to do so within 30 days after notice of the award is mailed. In some circumstances it may be appropriate to file both forms. You also may not use this form to request that the court confirm, correct, or vacate an arbitration award that does not concern an attorney-client fee dispute, but you may use form ADR-106 to do so. If you are requesting court action after an attorney-client fee arbitration award, please read form ADR-105, Information Regarding Rights After Attorney-Client Fee Arbitration, before completing this form.	

1. Petitioner and respondent. Petitioner (name each):

alleges and requests relief against respondent (name each):

2. Attorney-client fee dispute arbitration. This petition is filed after an attorney-client fee arbitration conducted under Business and Professions Code sections 6200–6206. Petitioner was:

- a. ☐ the attorney involved in the fee dispute.
- b. ☐ the client involved in the fee dispute.

3. Pending or new action.

- a. ☐ A court case is already pending, and this is a petition filed in that action. (If so, proceed to item 4.)
- b. ☐ This petition commences a new action. (If so, complete items 3b(1) through 3b(4).)

- (1) **Petitioner's capacity.** Each petitioner named in item 1 is an individual,
☐ except petitioner (state name and complete one or more of the following):
- (a) ☐ is a corporation qualified to do business in California.
 - (b) ☐ is an unincorporated entity (specify):
 - (c) ☐ is a representative (specify):
 - (d) ☐ is (specify other capacity):

- (2) **Respondent's capacity.** Each respondent named in item 1 is an individual,
☐ except petitioner (state name and complete one or more of the following):
- (a) ☐ is a business organization, form unknown.
 - (b) ☐ is a corporation.
 - (c) ☐ is an unincorporated entity (specify):
 - (d) ☐ is a representative (specify):
 - (e) ☐ is (specify other capacity):

PETITIONER:	CASE NUMBER:
RESPONDENT:	

3. b. New action *(continued)*

(3) **Amount or property in dispute.** This petition involves a dispute over *(check and complete all that apply)*:

- (a) ☐ The following amount of money *(specify amount)*: \$
- (b) ☐ Property *(if the dispute involves property, complete both of the following)*:
- (i) ☐ consisting of *(identify property in dispute)*:
- (ii) ☐ having a value of *(specify value of property in dispute)*: \$

(4) **Venue.** This court is the proper court because *(complete (a) or (b))*:

- (a) ☐ This is the court in the county in which the arbitration was held.
- (b) ☐ The arbitration was not held exclusively in any county of California, or was held outside of California, **and** *(check and complete one or more of the following)*:
- (i) ☐ This is the court in the county where the agreement was made.
- (ii) ☐ This is the court in the county where the agreement is to be performed.
- (iii) ☐ The agreement does not specify a county where it is to be performed and was not made in any county in California, and the following party resides or has a place of business in this county *(name of party)*:
- (iv) ☐ The agreement does not specify a county where it is to be performed and was not made in any county in California, and no party to this action resides or has a place of business in California.

4. Arbitrator. The following person was duly selected or appointed as arbitrator *(name of each arbitrator)*:

5. Arbitration hearing. The arbitration hearing was conducted as follows *(complete both of the following)*:

- a. **Date** *(each date of arbitration)*:
- b. **Location** *(city and state where arbitration was conducted)*:

6. Arbitration award.

- a. **Date of award.** The arbitration award was made on *(date)*:
- b. **Terms of award.** The arbitration award *(complete one or more of the following)*:
- (1) ☐ Requires ☐ the attorney ☐ the client to pay the other party this amount: \$
- (2) ☐ Requires neither the attorney nor the client to pay the other anything.
- (3) ☐ Provides *(specify other terms or complete item 8b(4) and attach a copy of the award)*:
- (4) ☐ A copy of the arbitration award is attached as Exhibit "___."

7. Notice of award. The notice of the arbitration award indicates that it was mailed to petitioner on *(date)*:

8. Binding award. The arbitration award is binding because *(check all that apply)*:

- a. ☐ After the fee dispute arose, the parties agreed in writing that the arbitration award would be binding. A copy of the agreement that the award will be binding is attached as Exhibit "___."
- b. ☐ More than 30 days have passed since notice of the award was mailed, and no party has filed a rejection of the award and request for trial.

9. ☐ **Willful nonappearance.** Thirty days have not passed since notice of the award was mailed; however, respondent willfully failed to appear at the arbitration hearing. The award ☐ does ☐ does not contain a finding that respondent's failure to appear was willful.

10. Petitioner requests that the court *(check all that apply)*:

- a. ☐ **Confirm the award and enter judgment according to it.**
- b. ☐ **Correct the award and enter judgment according to the corrected award, as follows:**
- (1) The award should be corrected because *(check all that apply)*:
- (a) ☐ The amount of the award was not calculated correctly, or a person, thing, or property was not described correctly.
- (b) ☐ The arbitrator exceeded his or her authority.
- (c) ☐ The award is imperfect as a matter of form.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

10. Petitioner requests that the court *(continued)*:

b. **Correct the award** *(continued)*:

(2) Describe the circumstances indicated in item 10b(1) *(attach exhibit if additional space required)*:

(3) Correction requested *(specify how award should be corrected; attach exhibit if additional space required)*:

c. ☐ **Vacate (cancel) the award.**

(1) The award should be vacated because *(check all that apply)*:

- (a) ☐ The award was obtained by corruption, fraud, or other unfair means.
- (b) ☐ An arbitrator was corrupt.
- (c) ☐ The misconduct of a neutral arbitrator substantially prejudiced petitioner's rights.
- (d) ☐ The arbitrator exceeded his or her authority, and the award cannot be fairly corrected.
- (e) ☐ The arbitrator unfairly refused to postpone the hearing or to hear evidence useful to settle the dispute.
- (f) ☐ An arbitrator failed to disclose within the time for disclosure a ground for disqualification of which the arbitrator was then aware.
- (g) ☐ An arbitrator should have disqualified himself or herself after petitioner made a demand to do so.

(2) Describe the circumstances indicated in item 10c(1) *(attach exhibit if additional space required)*:

(3) Petitioner ☐ does ☐ does not request a new arbitration hearing.

d. ☐ **Award petitioner interest** from *(date)*:

- (1) ☐ at the statutory rate.
- (2) ☐ at rate of ____ % per year.

e. ☐ **Award petitioner costs of suit:**

- (1) ☐ in the amount of: \$
- (2) ☐ according to proof.

f. ☐ **Award petitioner attorney fees incurred in this action** *(check only if attorney fees are recoverable in this action according to statute or the parties' agreement)*:

- (1) ☐ in the amount of: \$
- (2) ☐ according to proof.

g. ☐ **Award petitioner the following other relief** *(describe other relief requested; attach exhibit if additional space required)*:

11. Pages and attachments. Number of pages attached:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)

PETITIONER:	CASE NUMBER:
RESPONDENT:	

5. Arbitration hearing *(continued)*

c. **Appearances at the arbitration.** The arbitration hearing was conducted as follows *(complete each of the following)*:

(1) Petitioner appearance

(a) ☐ Petitioner appeared at the arbitration.

(b) ☐ Petitioner did not appear at the arbitration hearing. Petitioner's failure to appear was not willful because *(explain reasons for not appearing)*:

(2) Respondent appearance

(a) ☐ Respondent appeared at the arbitration.

(b) ☐ The following respondent did not appear at the arbitration hearing *(name of each)*:

6. Arbitration award.

a. **Date of award.** The arbitration award was made on *(date)*:

b. **Amount of award.** The arbitration award *(complete one of the following)*:

(1) ☐ requires ☐ the attorney ☐ the client to pay the other party this amount: \$

(2) ☐ requires neither the attorney nor the client to pay the other anything.

c. ☐ **Failure to appear.** The arbitrator found that the following party willfully failed to appear at the arbitration hearing:

(1) ☐ Petitioner *(name each)*:

(2) ☐ Respondent *(name each)*:

d. ☐ **Other provisions of award.** The award also provides *(specify other terms or complete item 6e and attach a copy of the award)*:

e. ☐ **Attachment of award.** A copy of the arbitration award is attached as Exhibit "____."

7. Notice of award. This Rejection of Award and Request for Trial is filed within 30 days after notice of the award was mailed to petitioner. *(A trial after arbitration is available only if it is requested within 30 days after the notice of award was mailed to the party requesting the trial.)*

a. The notice of the award indicates that it was mailed to petitioner on *(date)*:

b. ☐ Petitioner alleges that the award was actually mailed on *(date)*:

8. Nonbinding arbitration. The parties did not agree in writing, at any time after the dispute over attorney fees or costs arose, to be bound by the arbitration award. *(A trial after arbitration is not available if the parties agreed in writing after the dispute arose that the award would be binding.)*

9. Rejection of award and request for trial. Petitioner rejects the arbitration award and requests a trial ("hearing de novo") in court to resolve the dispute over attorney fees and costs.

10. Amount in dispute. The amount of attorney fees and costs in dispute is *(amount)*: \$

11. Pages and attachments. Number of pages attached:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)

**INFORMATION REGARDING RIGHTS AFTER
ATTORNEY-CLIENT FEE ARBITRATION****1. RIGHTS AFTER NONBINDING ARBITRATION****A. What is a nonbinding attorney-client fee arbitration award?**

An award is nonbinding if (1) the parties did not agree in writing to be bound by the award after the dispute over fees or costs arose; and (2) a party who did not willfully fail to appear at the arbitration hearing rejects the award and requests a trial within 30 days after notice of a nonbinding award is mailed.

B. What are my rights if I am not satisfied with a nonbinding attorney-client fee arbitration award?

If the arbitration award is nonbinding, you may have a right to a trial in court. If you did not appear at your fee arbitration hearing, however, you will have to prove to the court that you had a good reason for not being there. If a court determines that your failure to appear was willful, you may not be entitled to a trial after arbitration. If you want a trial in court, you should follow the instructions in this form to protect your rights.

C. What must I do to get a trial in court?

You must file papers in the proper court within the required time limit.

D. How long do I have to act?

If you want a trial in court, you must file your papers in court within 30 days after the date that the arbitration award is mailed to you. The date the arbitration award was mailed is written at the end of the notice you received.

E. What papers must I file? In what court must I file them?

That depends. Has a lawsuit about the fees already been filed?

(1) YES—lawsuit already filed

If a lawsuit about the fees has already been filed, then you must file a request for a trial in the same court where the lawsuit was filed, under the same case number as the lawsuit that is pending. If the lawsuit is in small claims court, you can use Judicial Council forms SC-100 and SC-101 to request a trial after a nonbinding attorney-client fee arbitration. If the lawsuit is in superior court, you can use form ADR-104 to request a trial after a nonbinding attorney-client fee arbitration.

(2) NO—lawsuit not yet filed

If no lawsuit about the fees has been filed, you must file your own lawsuit in the proper court and request a trial in that court if you do not want the award to become binding. If the arbitration was held in California, you must file the lawsuit and request for trial in the small claims court or the superior court in the county where the arbitration was held.

- If the amount in dispute is \$5,000 or less, you may file your lawsuit in small claims court. You can use Judicial Council form SC-100 to file a lawsuit in small claims court and form SC-101 to request a trial in that action.
- If the amount in dispute is more than \$5,000, you must file a complaint in the superior court to begin your lawsuit. You may be able to use Judicial Council forms 982.1(20) through 982.1(23) to file a new superior court action, but you may need a lawyer's help to prepare an appropriate complaint. You can use form ADR-104 to reject the arbitration award and request a trial at the same time you file your complaint.

F. What if I am satisfied with the award?

If you are satisfied with the nonbinding arbitration award, do nothing until the award becomes binding or the other party requests a trial. The award will become binding if the other party does not file papers requesting a trial in court within the 30-day limit.

G. What are my rights if the award becomes binding? *Read item 2 below.*

2. RIGHTS AFTER BINDING ARBITRATION

A. What is a binding attorney-client fee arbitration award?

An award is binding if either (1) the parties agreed in writing to be bound by the award after the dispute over fees or costs arose; or (2) no party (other than one who willfully failed to appear at the arbitration hearing) rejects the award and requests a trial within 30 days after notice of a nonbinding award is mailed.

B. What are my rights if I am not satisfied with a binding attorney-client fee arbitration award?

If the arbitration award is binding, in most cases you must obey it. There is no appeal from a binding award.

A court has the power to "vacate" (cancel) an arbitration award, but only for the following narrow reasons:

- (1) The award was obtained by corruption, fraud, or other unfair means.
- (2) One or more of the arbitrators was corrupt.
- (3) The misconduct of a neutral arbitrator substantially prejudiced a party's rights.
- (4) The arbitrator exceeded his or her authority and the award cannot be fairly corrected.
- (5) The arbitrator unfairly refused to postpone the hearing or to hear evidence useful to settling the dispute.
- (6) An arbitrator failed to disclose within the time for disclosure a ground for disqualification of which the arbitrator was then aware.
- (7) An arbitrator should have disqualified himself or herself after a party made a demand to do so.

A court can also correct the following types of obvious mistakes in the award:

- (1) The amount of the award was not calculated correctly, or a person, a thing, or property was not described correctly.
- (2) The arbitrator exceeded his or her authority,
- (3) The award is imperfect as a matter of form.

If you think you are entitled to correct or vacate the arbitration award, please follow the instructions below to protect your rights.

C. What must I do to vacate or correct a binding arbitration award?

You must file a petition to vacate or correct the award in the proper court within the required time limit.

D. How long do I have to act?

If you want to correct or vacate the binding award, ordinarily you must file your petition within 100 days after the arbitration award was mailed to you. The date the award was mailed is at the end of the notice mailed with the award. If you receive notice from a court that the other side has filed a petition to confirm the award, however, you no longer have 100 days to file your petition. You then must respond by filing your petition to vacate or correct the award within the time stated on the notice from the court.

E. What papers must I file? In what court must I file them?

That depends. Has a lawsuit about the fees already been filed?

(1) YES—*lawsuit already filed*

If a lawsuit about the fees has already been filed, you must file your petition to vacate or correct the award with the same court where the lawsuit was filed, under the same case number as the lawsuit that is pending.

(2) NO—*lawsuit not yet filed*

If no lawsuit about the fees has been filed, you must file your petition to correct or vacate the award in the proper court. If the arbitration was held in California, you must file the petition in the small claims court or the superior court in the county where the arbitration was held.

- If the amount in dispute is \$5,000 or less, you can file your petition in the small claims court, using Judicial Council forms SC-100 and SC-101.
- If the amount in dispute is more than \$5,000, you must file your petition in the superior court. You can use Judicial Council form ADR-103 to do this. (You do not need to file a separate complaint with form ADR-103 when you are petitioning to vacate or correct a binding arbitration award.)

F. What if I am satisfied with the binding arbitration award?

If the arbitration award indicates or says that you owe money and you do not intend to petition to have the award corrected or vacated (canceled), you should pay the amount that you owe. If you do not pay it, the other party has a right to get court orders allowing him or her to collect the debt by taking and selling your property and by taking money from your paycheck and bank account.

If the arbitration award says that you are owed money, you should write the other party a letter and demand payment.

If you are not paid, you can seek to enforce the arbitration award. See item 3 below.

3. How can binding attorney-client fee arbitration awards be enforced?

There are two procedures for enforcing binding attorney-client fee arbitration awards.

A. If you are the client, you have the right to ask the State Bar to assist you in enforcing the arbitration award if the following is true:

- (1) Your arbitration request was filed on or after January 1, 1994; and
- (2) (a) 100 days have passed from service of the award and the award is binding, or
(b) The award has become a final judgment after a trial following arbitration or after a petition to vacate, correct, or confirm the award.

You can write or phone the State Bar and request the form *Request for Enforcement of an Award*.

Contact: Mandatory Fee Arbitration, 180 Howard Street, 6th Floor, San Francisco, CA 94105-1639

(Telephone: 415-538-2020).

B. Any party who is owed money also has the right to request court orders allowing him or her to take property or money from the other party's paycheck and bank accounts. To get those court orders based on an attorney-client fee arbitration award, however, you must first make the arbitration award a judgment of the court. To do this, you must confirm the arbitration award in court.

(1) What must I do to confirm the arbitration award?

To confirm the arbitration award, you must file a petition to confirm award with the proper court within the required time limit.

(2) How long do I have to act?

You must file your petition to confirm award within four years after the date the arbitration award was mailed to you. That date appears at the end of the notice mailed with the award.

(3) What papers must I file? In what court must I file them?

That depends. Has a lawsuit about the fees already been filed?

(a) YES—lawsuit already filed

If a lawsuit about the fees has already been filed, you will file your petition with the same court where the lawsuit was filed, under the same case number as the lawsuit that is pending.

(b) NO—lawsuit not yet filed

If no lawsuit about the fees has been filed, then you must file your petition to confirm the award in the proper court. If the arbitration was held in California, you must file the petition in the small claims court or the superior court in the county where the arbitration was held.

- If the amount in dispute is \$5,000 or less, you can file your petition in the small claims court, using Judicial Council forms SC-100 and SC-101.
- If the amount in dispute is more than \$5,000, you must file your petition in the superior court. You can use Judicial Council form ADR-103 to do this. (You do not need to file a separate complaint with form ADR-103 when you are petitioning to confirm a binding arbitration award.)

(4) What are my rights after the arbitration award is confirmed?

When the arbitration award is confirmed, it becomes a judgment of the court. Once you have a judgment, you have a right to enforce the judgment. That means you can get court orders allowing you to collect your money. Enforcing judgments can be very technical and very complicated. The court has forms to use for this procedure.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h1 style="margin: 0;">DRAFT 5</h1> <h1 style="margin: 0;">3/19/03</h1>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
PETITIONER: RESPONDENT:	
PETITION TO <input type="checkbox"/> CONFIRM <input type="checkbox"/> CORRECT <input type="checkbox"/> VACATE CONTRACTUAL ARBITRATION AWARD	
Jurisdiction (check all that apply): <input type="checkbox"/> Action is a limited civil case Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input type="checkbox"/> Action is an unlimited civil case (exceeds \$25,000)	
NOTICE: You may use this form to request that the court confirm, correct, or vacate an award in an arbitration conducted pursuant to an agreement between the parties that is subject to Code of Civil Procedure section 1285 et seq., and that does not involve an attorney-client fee dispute. If you are requesting court action after an attorney-client fee arbitration award, please read form ADR-105, <i>Information Regarding Rights After Attorney-Client Fee Arbitration</i> .	

1. Petitioner and respondent. Petitioner (name each):

alleges and requests relief against respondent (name each):

2. Contractual arbitration. This petition requests the court to confirm, correct, or vacate an award in an arbitration conducted according to an agreement between the parties that is subject to Code of Civil Procedure section 1285 et seq.

3. Pending or new action.

- a. ☐ A court case is already pending, and this is a petition filed in that action. (If so, proceed to item 4.)
 b. ☐ This petition commences a new action. (If so, complete items 3b(1) through 3b(4).)

(1) **Petitioner's capacity.** Each petitioner named in item 1 is an individual,
☐ except petitioner (state name and complete one or more of the following):

- (a) ☐ is a corporation qualified to do business in California.
 (b) ☐ is an unincorporated entity (specify):
 (c) ☐ is a representative (specify):
 (d) ☐ is (specify other capacity):

(2) **Respondent's capacity.** Each respondent named in item 1 is an individual,
☐ except respondent (state name and complete one or more of the following):

- (a) ☐ is a business organization, form unknown.
 (b) ☐ is a corporation.
 (c) ☐ is an unincorporated entity (specify):
 (d) ☐ is a representative (specify):
 (e) ☐ is (specify other capacity):

(3) **Amount or property in dispute.** This petition involves a dispute over (check and complete all that apply):

- (a) ☐ The following amount of money (specify amount): \$
 (b) ☐ Property (if the dispute involves property, complete both of the following):
 (i) consisting of (identify property in dispute):
 (ii) having a value of (specify value of property in dispute): \$

PETITIONER: _____ RESPONDENT: _____	CASE NUMBER: _____
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3. b. New action *(continued)*

(4) ☐ **Venue.** This court is the proper court because *(complete (a) or (b))*:

(a) ☐ This is the court in the county in which the arbitration was held.

(b) ☐ The arbitration was not held exclusively in any county of California, or was held outside of California, **and** *(check and complete one or more of the following)*:

(i) ☐ This is the court in the county where the agreement was made.

(ii) ☐ This is the court in the county where the agreement is to be performed.

(iii) ☐ The agreement does not specify a county where it is to be performed and was not made in any county in California, and the following party resides or has a place of business in this county *(name of party)*:

(iv) ☐ The agreement does not specify a county where it is to be performed and was not made in any county in California, and no party to this action resides or has a place of business in California.

4. Agreement to arbitrate.

a. **Date.** Petitioner and respondent entered into a written agreement on or about *(date)*:

b. ☐ **Attachment.** A copy of the agreement is attached as Exhibit "_____" and incorporated herein by this reference.

c. **Arbitration provision.** Paragraph _____ of the agreement provides for arbitration of disputes arising out of the agreement as follows *(either copy the arbitration provision in full or summarize the provision)*:

5. Dispute subject to arbitration. A dispute arose between petitioner and respondent concerning the following matter covered by the agreement to arbitrate *(summarize the dispute)*:

6. Arbitrator. The following person was duly selected or appointed as arbitrator *(name of each arbitrator)*:

7. Arbitration hearing. The arbitration hearing was conducted as follows *(complete both of the following)*:

a. **Date** *(each date of arbitration)*:

b. **Location** *(city and state where arbitration was conducted)*:

8. Arbitration award.

a. **Date of award.** The arbitration award was made on *(date)*:

b. **Terms of award.** The arbitration award *(complete one or more of the following)*:

(1) ☐ Requires ☐ petitioner ☐ respondent to pay the other party this amount: \$

(2) ☐ Requires neither party to pay the other anything.

(3) ☐ Provides *(specify other terms or complete item 8b(4) and attach a copy of the award)*:

(4) ☐ A copy of the arbitration award is attached as Exhibit "_____."

9. Service of award.

a. The signed award or an accompanying document indicates that the award was served on petitioner on *(date)*:

b. ☐ Petitioner alleges that a signed copy of the award was actually served on *(date)*:

PETITIONER: _____	CASE NUMBER: _____
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10. Petitioner requests that the court *(check all that apply):*

a. ☐ **Confirm the award, and enter judgment according to it.**

b. ☐ **Correct the award and enter judgment according to the corrected award, as follows:**

(1) The award should be corrected because *(check all that apply):*

- (a) ☐ The amount of the award was not calculated correctly, or a person, thing, or property was not described correctly.
- (b) ☐ The arbitrator exceeded his or her authority.
- (c) ☐ The award is imperfect as a matter of form.

(2) Describe the circumstances indicated in item 10b(1) *(attach exhibit if additional space required):*

(3) Correction requested *(specify how award should be corrected; attach exhibit if additional space required):*

c. ☐ **Vacate (cancel) the award.**

(1) The award should be vacated because *(check all that apply):*

- (a) ☐ The award was obtained by corruption, fraud, or other unfair means.
- (b) ☐ An arbitrator was corrupt.
- (c) ☐ The misconduct of a neutral arbitrator substantially prejudiced petitioner's rights.
- (d) ☐ The arbitrator exceeded his or her authority, and the award cannot be fairly corrected.
- (e) ☐ The arbitrator unfairly refused to postpone the hearing or to hear evidence useful to settle the dispute.
- (f) ☐ An arbitrator failed to disclose within the time for disclosure a ground for disqualification of which the arbitrator was then aware.
- (g) ☐ An arbitrator should have disqualified himself or herself after petitioner made a demand to do so.

(2) Describe the circumstances indicated in item 10c(1) *(attach exhibit if additional space required):*

(3) Petitioner ☐ does ☐ does not request a new arbitration hearing.

d. ☐ **Award petitioner interest from (date):**

- (1) ☐ at the statutory rate.
- (2) ☐ at rate of ____ % per year.

e. ☐ **Award petitioner costs of suit:**

- (1) ☐ in the amount of: \$
- (2) ☐ according to proof.

f. ☐ **Award petitioner attorney fees incurred in this action** *(check only if attorney fees are recoverable in this action according to statute or the parties' agreement):*

- (1) ☐ in the amount of: \$
- (2) ☐ according to proof.

g. ☐ **Award petitioner the following other relief** *(describe other relief requested; attach exhibit if additional space required):*

11. Pages and attachments. Number of pages attached:

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER OR ATTORNEY)